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APR 02 2004

OFFICE OF PETITIONS

In re Application of :
Dennis Brandon : DECISION GRANTING PETITION
Application No. 10/666,387 :
Filed: 18 September, 2003 :
Attorney Docket No. 28396-6 :
:

This is a decision on the petition filed on 30 January, 2004, requesting that the above-identified application be accorded a filing date of 18 September, 2003, with a complete specification as a part of the original disclosure.

The petition is granted.

The application was filed on 18 September, 2003. However, on 29 January, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 was missing.

In response, on 30 January, 2004, the present petition was filed, accompanied by 16 pages of specification, including claims and one (1) page of abstract, and 10 sheets of drawings. Petitioners assert that the above-identified application is a divisional of Application No. 09/795,645 filed on 28 February, 2001, and that the prior application was incorporated by reference.

A search of the official file reveals that on 18 September, 2003, a "Utility Patent Application Transmittal" letter was filed which itemized the filing of a declaration and preliminary amendment. The transmittal letter states that the application is a divisional of Application No. 09/795,645, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "complete

specification" of the prior application, and the incorporation by reference statement appearing on the transmittal letter deposited on 18 September, 2003, stating that the entire disclosure of prior application (identified as Application No. 09/795,645) on the transmittal letter was incorporated by reference in the present application on 18 September, 2003, it appears that the specification was present in the Office on 18 September, 2003, albeit in the file of another application, i.e., Application No. 09/795,645. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the 16 pages of specification, including claims and abstract, and 10 sheets of drawings supplied on 30 January, 2004, as a part of the original disclosure.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of \$130.00 will not be refunded.

Of course, the primary examiner is expected to compare the specification supplied on 30 January, 2004, to the disclosure of prior application No. 09/795,645 in order to verify that the specification is, in fact, part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 18 September, 2003, using the application papers filed on that date and the 16 pages of specification and claims, including one (1) page of abstract, and 10 sheets of drawings supplied with the present petition, as the original disclosure, and for an indication in Office records that 10 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
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